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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

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9 David Toon,) No. CV 11-1196-PHX-JAT
10 Plaintiff,)
11 vs.)
12 Patricia R. Rivard; Steven Rivard,)
13 Defendants.)
14 _____)
15

ORDER

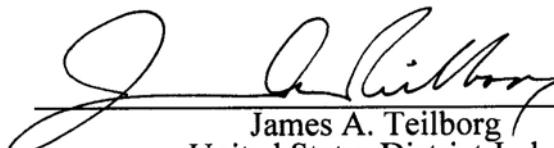
16 “Inquiring whether the court has jurisdiction is a federal judge’s first duty in every
17 case.” *Belleville Catering Co. v. Champaign Market Place, L.L.C.*, 350 F.3d 691, 693 (7th
18 Cir. 2003). In this case, the complaint alleges jurisdiction based on diversity. Doc. 5 at 1;
19 28 U.S.C. § 1332. Diversity jurisdiction requires complete diversity between all plaintiffs
20 and all defendants. *Caterpillar v. Lewis*, 386 U.S. 523, 531 (1996).

21 Plaintiff alleges that he is a citizen of Arizona. Doc. 5 at 1. Plaintiff alleges that
22 Defendant Patricia Rivard is a citizen of Arizona. *Id.* Plaintiff makes no jurisdictional
23 allegation for Defendant Steven Rivard. Based on these allegations, there is not complete
24 diversity among the parties. Further, because Plaintiff and one Defendant are both citizens
25 of the same state, the Court finds that this defect in jurisdiction cannot be cured by an
26 amendment to the complaint. Therefore,

27 IT IS ORDERED that this case is dismissed, without prejudice, for lack of federal
28 subject matter jurisdiction.

1 IT IS FURTHER ORDERED that the motion to proceed in forma pauperis (Doc. 2)
2 is denied as moot.

3 DATED this 12th day of July, 2011.

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6 James A. Teilborg
7 United States District Judge
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